

To: Hagler, Tom[Hagler.Tom@epa.gov]
From: Obegi, Doug
Sent: Thur 3/13/2014 8:59:41 PM
Subject: RE: NRDC: Court Upholds Key Protections for California Bay-Delta Health

?????????

Court holds that the biop was not arbitrary and capricious and reverses the remand of the biop. Totally unclear to me what this means for CSAMP - feds have said previously that they might still do another biop, and Reclamation still has to do the NEPA process for accepting the biop (although the opinion makes clear that the EIS has no effect on the biop).

From: Hagler, Tom [Hagler.Tom@epa.gov]
 Sent: Thursday, March 13, 2014 1:57 PM
 To: Obegi, Doug
 Subject: RE: NRDC: Court Upholds Key Protections for California Bay-Delta Health

What, if anything, does this do to the CSAMP process?

-----Original Message-----

From: Obegi, Doug [mailto:dobegi@nrdc.org]
 Sent: Thursday, March 13, 2014 1:56 PM
 To: Hagler, Tom
 Subject: RE: NRDC: Court Upholds Key Protections for California Bay-Delta Health

Other than the NEPA ruling at the end (which Feds didn't oppose, and which is fairly narrow), it's a pretty clean victory although a lot of it rides on deference to the agency.

From: Hagler, Tom [Hagler.Tom@epa.gov]
 Sent: Thursday, March 13, 2014 1:49 PM
 To: Obegi, Doug
 Subject: RE: NRDC: Court Upholds Key Protections for California Bay-Delta Health

Congratulations!

I'm just skimming this right now. Is this as clean a victory as it appears, or am I missing something?

-----Original Message-----

From: Obegi, Doug [mailto:dobegi@nrdc.org]
 Sent: Thursday, March 13, 2014 1:42 PM
 To: Hagler, Tom
 Subject: FW: NRDC: Court Upholds Key Protections for California Bay-Delta Health

VINDICATION

From: Obegi, Doug
 Sent: Thursday, March 13, 2014 10:53 AM
 To: Jonathan Alan Rosenfield Ph. D. (rosenfield@bay.org)
 Subject: FW: NRDC: Court Upholds Key Protections for California Bay-Delta Health

From: Gasperik, Dylan

Sent: Thursday, March 13, 2014 10:31 AM
 To: Water Program; CADrought; Press Release Core; LA Office; SF Office
 Subject: NRDC: Court Upholds Key Protections for California Bay-Delta Health

FOR IMMEDIATE RELEASE

Press contact: Jackie Wei (NRDC), 310-434-2325; cell: 347-874-8305, jwei@nrdc.org

NRDC: Court Upholds Key Protections for California Bay-Delta
 Health<<http://www.nrdc.org/media/2014/140313.asp>>
 Decision Helps Preserve Water Supplies for Delta's Fishing and Farming Communities

SAN FRANCISCO (March 13, 2014) - The U.S. Ninth Circuit Court of Appeals today ruled to uphold a federal plan of protection for California's vital Delta ecosystem. The court sided with the Natural Resources Defense Council (NRDC), Earthjustice, The Bay Institute and the federal government in its determination that protections for the threatened delta smelt - a bellwether species that indicates the health of the vital San Francisco Bay-Delta estuary - are fully justified and necessary to restore the health and water quality of this largest estuary on the west coast of the Americas.

Today's ruling stems from several lawsuits filed in 2008 contesting the U.S. Fish & Wildlife Service's protections for threatened and endangered fish in the Delta. These protections, described in a 2008 biological opinion, were issued to address the Delta's ecological collapse, which threatens the regional water supply and health, as well as local fisherman and farmers.

Following is a statement from Kate Poole<<http://switchboard.nrdc.org/blogs/kpoole/>>, senior attorney with the Natural Resources Defense Council:

"The court reaffirmed the facts and recognized that science needs to guide our management of the Delta in order for our farms, cities and wildlife to thrive.

"Taking more water out of the Delta is not going to solve our problems. The emergency drought is a state-wide problem that affects all of us - from farmers to fisherman to the average citizen. And it's the drought, not the Delta, that's affecting the water supply this year. That's why Delta fisherman and farmers support these protections - because their jobs and livelihoods depend on it.

"While we can't make it rain, we can take charge of our water use by investing in smart water practices that protect and preserve our water supply. In order to ensure a healthy, productive fishing and farming industry in the Delta, the State needs to invest in a 21st-century water system that can deliver clean, healthy water supplies for generations to come. That means employing common sense water-saving measures including everything from water conservation in our homes to drought-resistant regional water supply strategies like water recycling to advanced irrigation systems on our farms. At a time when we cannot afford to let a drop go to waste, these steps will ensure a healthy water supply today and more resilient cities and farms tomorrow.

"Today's ruling recognizes the importance of the Delta's fishing and farming community, which deserves to have its livelihood preserved. We now look forward to working with the State to advance real long-term solutions to our water needs."

Additionally, following is a statement from Trent Orr, Earthjustice attorney, a partner in the suits:

"The smelt biological opinion is a keystone element of the effort to restore the Bay-Delta to health. In recent decades, the population of the delta smelt, once one of the most abundant fish in the Delta, has collapsed largely because of over-pumping of water for industrial-scale agriculture in semi-desert areas. Many other species that rely on sufficient freshwater flows through the Delta have declined as well. Our efforts to improve flows through the Delta for the smelt have beneficial effects on the entire Delta ecosystem and the complex web of life it supports. Today's decision will keep those flows in place and

protect the Delta," said Trent Orr, Earthjustice attorney.

To read the full opinion: http://docs.nrdc.org/water/wat_14031301.asp

The Natural Resources Defense Council (NRDC) is an international nonprofit environmental organization with more than 1.4 million members and online activists. Since 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC has offices in New York City, Washington, D.C., Los Angeles, San Francisco, Chicago, Bozeman, MT, and Beijing. Visit us at www.nrdc.org <<http://www.nrdc.org/>> and follow us on Twitter @NRDC <<https://twitter.com/#!/nrdc>>.

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